

ROBERT L. HAYNIE ET AL.

IBLA 80-390

Decided October 28, 1980

Appeal from decision of the Wyoming State Office, Bureau of Land Management increasing rental rate on a nonproducing lease which is presently within a known geologic structure. W 27694.

Decision set aside; case remanded.

1. Oil and Gas Leases: Known Geologic Structure -- Rules of Practice:
Appeals: Generally

Where, on appeal, an oil and gas lessee submits evidence disputing a decision of the Geological Survey that the land embraced by his lease is not on a known geologic structure of a producing oil or gas field, and there is no basis in the record to support the Geological Survey's conclusion, a decision increasing the annual rental should be set aside and the case remanded for consideration by BLM of appellant's contentions.

APPEARANCES: Robert L. Haynie, pro se.

OPINION BY ADMINISTRATIVE JUDGE BURSKI

Robert L. Haynie, et al., hereinafter appellants, appeal from the decision of the Wyoming State Office, Bureau of Land Management (BLM), dated January 14, 1980, increasing the rental rate on nonproducing lease, W 27694, and notifying appellants that the lease is now located within a known geologic structure (KGS) of a producing oil or gas field. The lease was issued effective May 1, 1971, to Beverly J. Thiessen. In March 1972, the lease was assigned to C. E. Strange who in turn assigned it to appellants. By the decision of January 14, the annual rental on the lease was increased to the rate of \$ 2 per acre to begin within 30 days of the receipt of the BLM decision.

Appellants indicate that an oil company had located a well on land included within the subject lease, but subsequently plugged and abandoned it as a dry hole after drilling more than 8,000 feet below the surface. Two additional wells, direct offsets to the land in the lease, but located within the KGS, Thunder Creek Field, were plugged and abandoned as dry holes, after drilling more than 9,000 feet below the surface. Appellants admit, however, there are two marginally producing wells located within the KGS but not on lands included within lease W 27694. As a result of the dry wells and the low initial potentials of the marginal pumping wells in the vicinity of the lease in question, appellants are of the professional opinion "that Thunder Creek is a strategic reservoir with porosity and permeability barriers separating the land from all wells now producing in the field," but that no part of the land in W 27694 is located within the boundaries of the KGS of any producing oil or gas field. Therefore, appellants believe that the evidence is clear and convincing and that the determination of the Geological Survey was erroneous.

[1] The question arises as to the factual data used to support the determination of the Geological Survey. The record does not contain any. In the past, we have sustained KGS determinations in the absence of a clear and definite showing of error by one who challenges the KGS determination. On the basis of the data submitted, however, it is not clear whether the land herein should be classified as KGS lands. Accordingly, we are vacating the decision of the State Office and remanding the case files for further consideration. The State Office should obtain detailed analysis by the Geological Survey of the points raised by appellant. The response of Geological Survey is to be served on appellants, except to the extent that it contains proprietary information which may not, by law, be released. The State Office should then make another initial decision, subject to the right of appeal.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision is set aside and the case files are remanded for further action consistent herewith.

James L. Burski
Administrative Judge

We concur:

Joseph W. Goss
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

